

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

TRAMAINE EDWARD MARTIN,)	CASE NO. 1: 11 CV 2478
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	<u>ORDER ADOPTING</u>
)	<u>MAGISTRATE'S REPORT AND</u>
)	<u>RECOMMENDATION</u>
MARGARET A. BRADSHAW,)	
Warden,)	
)	
Defendant.)	

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge Vernelis K. Armstrong. The Report and Recommendation (ECF # 14), issued on August 14, 2012, is hereby ADOPTED by this Court. Petitioner filed this action requesting a writ of habeus corpus pursuant to 28 U.S.C. §2254, challenging the constitutionality of his judgment of conviction. On January 20, 2010, the Cuyahoga County Grand Jury issued an indictment charging Petitioner with three counts of failure to comply with an order or signal of a police officer in violation of O.R.C. § 2921.331(A) and (B); one count of receiving stolen property, in violation of O.R.C. § 2913.51(A); and one count of possessing criminal tools, in violation of O.R.C. § 2923.24(A). On June 7, 2010, Petitioner withdrew his original plea of not guilty to counts one and four, and counts two, three, and five were nolle. He was sentenced to a total of twenty-four months of

imprisonment. The Court also imposed a mandatory lifetime suspension of his driver's license.

Petitioner perfected a notice of appeal of his conviction and sentence, and the Court of Appeals overruled all four assignments of error raised by the Petitioner. Petitioner also unsuccessfully filed a Motion for Reconsideration, a Motion for Relief from Judgment, an untimely Appeal to the Supreme Court of Ohio, a Motion for Leave to File Delayed Appeal to the Ohio Supreme Court, a Request for Post-Conviction Relief, a Motion for Leave to File Summary Judgment, a second Motion for Relief from Judgment, a Petition for Writ of Mandamus, an Appeal from Denial of Writ of Mandamus, a Motion for Judicial Release, and a second Petition for Post-Conviction Relief. On November 14, 2011, Petitioner filed the instant Petition for Writ of Habeus Corpus.

The Magistrate Judge recommends that the Petitioner's first, second, and third claims be denied on the merits, and that his fourth claim should be dismissed as procedurally defaulted. The Petitioner did not file any objections to the Report and Recommendation, nonetheless, the Court has reviewed *de novo* the Report and Recommendation, *see Ohio Citizen Action v. City of Seven Hills*, 35 F. Supp. 2d 575, 577 (N.D. Ohio 1999). The Magistrate's Report and Recommendation fully and correctly addresses all of the arguments raised by the parties, and properly and justly analyzes the applicable law. This Court, therefore, adopts the Magistrate's Report in its entirety. Further, for the reasons stated in the Magistrate Judge's Report and Recommendation, a reasonable jurist could not conclude that dismissal of the Petition is in error or that Petitioner should be permitted to proceed further. Accordingly, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability. 28 U.S.C. §

2253(c); FED. R. APP. P. 22(b). IT IS SO ORDERED.

/s/ Donald C. Nugent
DONALD C. NUGENT
United States District Judge

DATED: September 28, 2012